BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKET NO. 2018-318-E

In the Matter of:	)	
Application of Duke Energy Progress, LLC	)	**REBUTTAL TESTIMONY OF**
For Adjustments in Electric Rate Schedules	)	**DR. JULIUS A. WRIGHT**
And Tariffs and Request for an Accounting	)	**FOR DUKE ENERGY**
Order	)	**PROGRESS, LLC**

I. INTRODUCTION AND PURPOSE

Q. PLEASE STATE YOUR NAME, OCCUPATION, TITLE AND BUSINESS ADDRESS.

A. Julius A. Wright, Managing Partner, J. A. Wright & Associates, LLC, 18 Edgewater Drive, Cartersville, Georgia, 30121. I am a consultant to regulated utilities and regulatory agencies and other public bodies on issues related to economics, economic modeling, regulatory policy, industry restructuring, demand-side investments, and resource planning.

Q. ON WHOSE BEHALF ARE YOU SUBMITTING THIS TESTIMONY?

A. I am submitting this rebuttal testimony on behalf of Duke Energy Progress, LLC ("DE Progress," or the "Company").

Q. ARE YOU THE SAME JULIUS A. WRIGHT WHO FILED DIRECT TESTIMONY IN THIS CASE?

A. Yes.

Q. PLEASE DISCUSS THE PURPOSE OF YOUR REBUTTAL TESTIMONY.

A. The purpose of my rebuttal testimony is to address several issues discussed in the direct testimony of intervenors related to the recovery of costs associated with coal combustion residuals ("CCR"), also referred to as coal ash, remediation expenses.

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

A. First, my rebuttal testimony recommends that the Commission reject the cost recovery disallowances related to coal combustion residuals ("CCR") proposed by Office of Regulatory Staff ("ORS") Witness Dan Wittliff.

Second, I respond to ORS Witness Michael Seaman-Huynh and his recommendation that the Commission disallow recovery of what he terms additional costs related to North Carolina laws and regulations. In my rebuttal, I discuss why his proposed segregation and disallowance of what he terms North Carolina allocated costs is incorrect and contrary to traditional regulatory policy and would ultimately result in increased costs for the Company's South Carolina customers.

Third, I respond to ORS Witness Willie Morgan's recommended disallowance for litigation expenditures that he believes are related to the Company's violation of environmental laws.

Fourth, I respond to ORS Witness Zachary Payne's recommended accounting treatment of the Company's deferred costs, and I show why his recommendation is contrary to long-standing recovery principles and policy.

Fifth, I respond to several issues related to coal ash costs raised by South Carolina Energy Users Committee ("SCEUC") Witness Kevin O'Donnell. I respond to his claim that the Company's coal ash related costs are much higher than other electric utilities. I also discuss why his recommended disallowance of 75% of the Company's proposed coal ash costs is inconsistent with traditional regulatory cost recovery principles.

Finally, I respond to Sierra Club Witness Ezra Hausman's contention that the Company's recovery of CCR expenses be conditioned on the Company's completion of a retirement analysis. My rebuttal testimony discusses why this proposal violates longstanding rate-making principles.

II. RESPONSE TO ORS WITNESS WITTLIFF

Q. WHAT ARE MR. WITTLIFF'S RECOMMENDATIONS RELATED TO THE COMPANY'S CCR MANAGEMENT THAT YOU ARE RESPONDING TO IN THIS REBUTTAL TESTIMONY?

A. I am responding to several of Mr. Wittliff's arguments. First, I respond to his (and ORS Witness Seaman-Huynh's) overarching contention that South Carolina ratepayers should not be required to pay an allocated portion of costs incurred by the Company to comply with North Carolina environmental regulations. Next, I explain how Mr. Wittliff's argument for cost disallowance fails to meet the appropriate regulatory standard for excluding costs from recovery. Finally, I address Mr. Wittliff's specific recommendations related to the CCR management underway at the Cape Fear, Asheville, H. F. Lee, Sutton and Weatherspoon facilities in North Carolina, where he identifies a percentage of CCR management costs that he claims were due to North Carolina law and should, therefore, not be allocated to South Carolina customers.

A. Recovery of Environmental Compliance Costs For CCR Management

Q. DOES DEP AGREE WITH MR. WITTLIFF'S CONCLUSION THAT THE COSTS HE RECOMMENDS BE EXCLUDED FROM RECOVERY IN THIS CASE ARE RELATED ONLY TO CAMA AND ARE NOT COSTS REQUIRED BY THE FEDERAL CCR RULE?

A. No. I understand that the Company disagrees with Mr. Wittliff's apparent conclusion that there are substantial differences between costs that may be required by CAMA as compared to costs that are required by the Federal CCR Rule. This specific issue is addressed in the rebuttal testimony of Mr. Kerin.

Q. EVEN ASSUMING THERE ARE DIFFERENCES BETWEEN CAMA AND CCR RULE COSTS, DOES THAT JUSTIFY MR. WITTLIFF'S RECOMMENDATION TO DISALLOW CAMA-RELATED COSTS?

A. No. As I discuss in this section of my rebuttal testimony, even if there are differences in the CAMA-related and Federal CCR Rule-related costs, these differences do not disqualify such CAMA-related costs from recovery from South Carolina customers.

Q. IS MR. WITTLIFF'S PROPOSAL FOR DISALLOWANCE OF WHAT HE TERMS "CAMA-RELATED COSTS" CONSISTENT WITH ESTABLISHED REGULATORY PRACTICES FOR MULTI-STATE UTILITIES?

A. No. Mr. Wittliff states (page 30, lines 18-19) that "it is the position of ORS that costs incurred as a result of jurisdictional laws should not lead to increased costs to ratepayers outside of that jurisdiction." ORS Witness Seaman-Huynh (page

7, lines 1-5) makes this same argument. This position is extreme and incorrect, and neither witness offers any policy justification for wholesale disregarding costs to comply with another state's laws. It is my experience that costs are allocated and recovered from customers based on which customers are served or benefitted by the actions that led to those costs. In this case, it is undisputed that the coal ash located at all of the Company's coal sites was produced as a result of providing electric energy to the Company's customers in both South Carolina and North Carolina. Therefore, the costs related to the CCR unit closure should likewise be borne by customers in both states. Furthermore, even though some costs to serve electric customers may be incurred due to a jurisdiction-specific law, such as differences in property taxes, this does not mean that the costs of such a law are not recoverable from all customers who benefit from the electric service activity associated with the law. This is how South Carolina and North Carolina have historically treated such costs.

Finally, the Company does not have the option to ignore South Carolina or North Carolina state law. If the Company is to continue to supply electric service, it must comply with the environmental laws of both South Carolina and North Carolina. The Company cannot simply pick and choose which environmental laws with which to comply. It would, therefore, be unreasonable to disallow costs the Company has incurred to follow the law.

Q. CAN YOU PROVIDE ANY EXAMPLES OF STATE SPECIFIC COSTS THAT ARE SHARED BY NORTH CAROLINA AND SOUTH CAROLINA CUSTOMERS?

A. Yes. Some state specific costs that are often shared between the states include property taxes on generation and transmission assets, differences in everyday operating costs like employee expenses, contractor expenses, fuel costs, and even costs like fuel transportation, which can differ depending on the location of a generating station (for example, rail service from coal mines to North Carolina can be different, and usually cheaper because of distance, than rail service to South Carolina). In addition, it is my understanding that, the Company has returned and is proposing to continue to return to South Carolina customers $30 million of excess deferred income taxes resulting from a decrease in the North Carolina state income tax rate. This decrease in the income tax rate is the result of North Carolina legislation. If it is the ORS's position that South Carolina customers should not pay for any costs due to North Carolina legislation, then they should also propose that South Carolina customers not receive any benefits due solely to North Carolina legislation, and therefore, the company would need to collect from customers the $29 million of North Carolina state income taxes it has already passed through to customers and remove the remaining $1 million from the case.

Q. HAVE NORTH CAROLINA AND SOUTH CAROLINA SHARED THE COMPANY'S ENVIRONMENTAL COMPLIANCE COSTS PRIOR TO THIS CASE?

A. Yes. In fact, it is my experience that most, if not all, of the environmental costs the Company has expended, absent some unusual circumstance, have been shared between the states. For example, coal ash beneficial reuse revenues have, to date, been allocated and shared between both states. Also, as I mentioned in my direct testimony, in this Commission's Docket No. 2011-271-E, costs associated with a Cliffside facility scrubber, located in North Carolina, were allocated to and recovered from South Carolina customers. Similarly, in Docket No. 2009-226-E, costs associated with scrubbers at the Allen Steam Station, also located in North Carolina, were likewise recovered from South Carolina customers.

Q. IS THIS TYPICAL IN OTHER STATES AS WELL?

A. Yes. This type of cost sharing is common where a utility's operations span multiple states and the utility property used to provide one particular state's electric service may be located in another state. Some examples of other states sharing environmental costs include:

Application of Southwestern Electric Power Company for Authority to Change Rates, SOAH Docket No. 473-17-64, PUC Docket No. 46449 (Sept. 21, 2017); Order on Rehearing (Mar. 19, 2018) (Allowed the environmental costs associated with retro-fitting a facility located in Louisiana in which a Texas utility owned an interest to be included in

the Texas utility's rate base).

In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company, Order No. PSC-17-0178-S-EI, FL PSC Docket No. 160170-EI (May 16, 2017) (Base rate case where Florida PSC allowed Gulf Power cost recovery of environmental costs associated with a plant in Georgia in which Gulf Power had an ownership interest through Gulf Power's environmental cost recovery clause).

In Re Environmental Cost Recovery Clause, Docket No. 090007-EI, 2009 WL 2028575 (Mar. 31, 2009) (Florida Public Service Commission approves Gulf Power's inclusion of environmental costs (including costs related to closure of an ash pond) relating to a Mississippi coal-fired generating unit in which Gulf Power owned an interest in its environmental compliance program, which program costs Gulf Power recovers through its environmental cost recovery clause).

Q. HOW IS SOUTH CAROLINA ADDRESSING THE CCR UNITS THAT ARE LOCATED WITHIN THE STATE?

A. South Carolina stakeholders have demonstrated a strong preference for excavation of coal ash ponds through settlements or negotiations with its electric suppliers, which predates the adoption of the Federal CCR Rule and CAMA. This excavation preference is more prescriptive than the CAMA

policies and reflects the most expensive type of closure option. For example, with respect to the Company's Robinson facility in South Carolina, on July 15, 2015, the Company entered into a Consent Agreement with the South Carolina Department of Health and Environmental Control ("SCDHEC"). This agreement called for the excavation of all of this site's CCR units, even those inactive units which were not covered under the CCR Rule.

It is important to note that the costs associated with these South Carolina agreements are appropriately allocated and recovered from North Carolina customers as approved by the North Carolina Utilities Commission's Feb. 23, 2018 Order in the Company's recent North Carolina general rate case (Docket No. E-2, Sub 1142, page 149, 159, 188, 272).

Q. WHAT DO YOU BELIEVE WOULD BE THE ULTIMATE RESULTS IF THIS COMMISSION WERE TO ADOPT MR. WITTLIFF'S RECOMMENDATIONS THAT ANY COSTS ASSOCIATED WITH NORTH CAROLINA'S CAMA LAW SHOULD BE EXCLUDED FROM RECOVERY IN SOUTH CAROLINA?

A. I discuss this in more detail in my response to ORS Witness Seaman-Huynh. However, in brief, in the near term, the Company's financial condition would be negatively impacted, likely resulting in an increase in the Company's cost of capital. Over time, this would lead to additional costs for all of the Company's customers. In other words, over time both South Carolina's and North Carolina's customers' electric service costs would increase due to South Carolina customers failing to pay their fair share of these environmental costs.

In addition, the failure of South Carolina customers to pay their allocated share of these costs would certainly be an unwelcome result to North Carolina citizens and regulators, as it would mean that North Carolina customers are currently paying their share of costs related to South Carolina's coal ash standards, which require more costly and extensive remediation than what is required by either CAMA or the Federal CCR Rule. Contemplating this result leads to the legitimate question of why is it appropriate for South Carolina and its citizens to require and have costs recovered from North Carolina customers for excavation of South Carolina coal ash ponds, but it is not appropriate for similar and even less costly remediation for North Carolina coal ash ponds to be recovered from South Carolina customers? In the end, accepting Mr. Wittliff's recommendation would likely result in some state regulatory jurisdictional issues that could even cause both states and the Company to rethink whether sharing generation assets still makes sense.

This conclusion is not simply supposition. In the Company's recent rate case Order in North Carolina (Feb. 23, 2018, Docket No. E-2, Sub 1142, page 219), the North Carolina Utilities Commission stated, with respect to the sharing of costs between the states "After consideration of this issue, the Commission finds and concludes that the adjustment recommended by Public Staff witness Maness to allocate all system-level CCR costs by a comprehensive allocation factor produces a more reasonable and appropriate outcome than the proposal by the Company to allocate a portion of these costs in a manner that does not allocate them to the South Carolina retail jurisdiction. Although the

costs in question were required pursuant to North Carolina law, the costs are inherently related to the burning of coal to provide electricity to the entire DEP system, including the South Carolina retail jurisdiction. The fact that these particular costs are associated with plants that are geographically located in North Carolina is no more relevant with regard to the proper allocation of these costs than it is to the proper allocation of other costs, such as fuel expense and other variable O&M expenses, which are allocated to the entire DEP system." Based on this statement, I would expect that the North Carolina Utility Commission would be both surprised and troubled should this Commission deny the Company recovery of South Carolina's share of CCR related costs, regardless of whether those costs were incurred to meet the requirements of CAMA or the Federal CCR Rule.

Q. DOES MR. WITTLIFF CONTEND THAT CAMA REQUIREMENTS ARE UNREASONABLE OR OUT OF LINE WITH WHAT OTHER STATES ARE NOW REQUIRING REGARDING ASH BASIN CLOSURES?

A. No, he does not, nor could he credibly make such an argument. For example, Virginia has recently adopted state-specific CCR unit closure legislation, similar to CAMA in requiring site specific closure standards and other requirements. Additionally, other states have adopted basin closure rules and regulations through their regulatory agencies that are more prescriptive than the Federal CCR Rule and/or reached settlements with their electric utilities regarding coal ash remediation that require steps beyond those required by the

Federal CCR Rule. These new environmental regulations and legal settlements have resulted in South Carolina's surrounding states adopting coal ash remediation policies that achieve similar closure standards as required by CAMA, as illustrated in the following list:

Georgia - Adopted the Federal CCR Rule, but the Georgia Department of Natural Resources adopted additional guidelines in October 2016 that are more restrictive than the Federal CCR Rule at the time in that these rules also related to inactive facilities not covered by the Federal CCR Rule. Georgia also has pending legislation, HB 94, which does address coal ash landfill restrictions. In addition, Georgia Power has agreed to close all 29 of its coal ash ponds. While Georgia Power initially agreed to cap 12 ponds in place and excavate 17, recently that utility has agreed to excavate two more large sites;

Virginia - Adopted the Federal CCR Rule, then passed legislation that requires Dominion Energy to excavate all of its coal ash sites in the Chesapeake Bay Watershed and also requires beneficiation at two sites. The legislation also has a 15 year time limit on the excavation, and allows cost recovery (plus a return), employment requirements, and reporting requirements;

Tennessee – The Department of Environment and Conservation has adopted the Federal CCR Rule, but the Department's rule indicated that it would oversee TVA's coal ash closure and even if TVA was in compliance with the Federal CCR Rule the Department may require

additional actions. Recent court action is also requiring extensive excavations of various TVA sites;

Florida - Adopted the Federal CCR Rule, but most of this state's coal ash is beneficiated. In addition, Tampa Electric Company recently decided to excavate its coal ash site at Big Bend Power Station and submitted its closure plan for the site on October 2018;

Alabama - According to the Alabama Public Service Commission, the Alabama Department of Environmental Management has not yet adopted the Federal CCR Rule but is considering seeking EPA approval for a state program that must be as stringent as the Federal CCR Rule. In addition, Alabama Power currently is involved in litigation that would require excavation of its CCR units.

Q. CAN YOU PLEASE COMPARE NORTH CAROLINA'S COAL ASH REGULATIONS TO THOSE IN SOUTH CAROLINA?

A. Through settlements with its electric utilities, South Carolina stakeholders have displayed a strong preference for the excavation of unlined coal ash basins – a result that is more prescriptive, more extensive, and more costly than what would have been allowed under CAMA or the Federal CCR Rule for some sites. Today, every unlined coal ash pond in South Carolina is being or will be excavated. For example, in addition to the example of the Company's Robinson facility I discuss above, in 2013 Santee Cooper agreed to excavate its Grainger site. In 2012, SCE&G settled a lawsuit by agreeing to excavate its Wateree and Canadys sites.

Q. DOES MR. WITTLIFF DISAGREE WITH THE COMPANY'S APPROACH TO CCR CLOSURE IN SOUTH CAROLINA?

A. No. Mr. Wittliff does not take issue with the Company's closure strategy for Robinson. I find that position interesting considering his statement that "North Carolina law and court decisions, over which South Carolina ratepayers have no meaningful input, should not place an additional burden on the ratepayers of South Carolina" (page 31, lines 4-6). Therefore, I assume Mr. Wittliff would agree with the proposition that North Carolina could simply adopt South Carolina's coal ash closure preferences and excavate all of the sites in North Carolina with South Carolina paying its full share of the increased costs that would come with such a policy.

Q. IF NORTH CAROLINA SIMPLY FOLLOWED SOUTH CAROLINA'S CURRENT COAL ASH REMEDIATION PREFERENCES, WHAT WOULD BE THE RESULTING COMPLIANCE STANDARD AND COSTS?

A. As I indicated above, South Carolina's coal ash remediation policies require excavating every unlined coal ash site. Where CAMA and the Federal CCR Rule allow some North Carolina sites to be capped-in-place, which is generally a less costly option than excavation, these sites, if located in South Carolina, would likely be excavated. Therefore, if North Carolina adopted this policy the costs would far exceed what is being requested in this filing.

B. The Appropriate Regulatory Standard For Disallowance of Costs

Q. IN YOUR OPINION, IS MR. WITTLIFF'S ARGUMENT FOR COST DISALLOWANCE AN APPROPRIATE BASIS FOR DISALLOWING MORE THAN HALF OF THE COMPANY'S COSTS FOR COMPLYING WITH CAMA AND THE FEDERAL CCR RULE?

A. No. The appropriate regulatory standard for denial of cost recovery is a finding that specifically identified costs were either not prudent,[1] were unjust or unreasonable,[2] or were incurred for facilities or expenses that are not considered used and useful[3] in the provision of electric service. As I will explain, Mr. Wittliff fails to present an argument that meets any of these three regulatory cost disallowance standards.

Moreover, simply relying on a claim that the Company is responding to a North Carolina law and, therefore, these costs only relate to North Carolina,

[1] "Regulators, in turn, agree to allow the utility to recover any costs that are "prudently" incurred in order to earn a "fair" return on its investment." Public Utility Commission Study, EPA Contract No. EP-W-07—064, March 31, 2011, page 5. "Although the burden of proof of the reasonableness of all costs incurred which enter into a rate increase request rests with the utility, the utility's expenses are presumed to be reasonable and incurred in good faith. *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 286, 422 S.E.2d 110, 112 (1992) (citations omitted). "This presumption does not shift the burden of persuasion but shifts the burden of production on to the Commission or other contesting party to demonstrate a tenable basis for raising the specter of imprudence." *Id. See also Utils. Servs. of South Carolina, Inc. v. South Carolina Office of Regulatory Staff*, 392 S.C. 96, 109-10, 708 S.E.2d 755, 762-63 (2011) (confirming that the same standard applied after the formation of the ORS).

[2] Such a regulatory policy fails to meet the most basic regulatory requirement that rates are based on "known and measurable" dollars. *See Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 291, 422 S.E.2d 110, 115 (1992) ("adjustments for known and measurable changes in expenses…must be known and measurable within a degree of reasonable certainty") and see §58-27-810 states that "Every rate made, demanded or received by any electrical utility or by any two or more electrical utilities jointly shall be just and reasonable."

[3] With respect to the "used and useful" standard, South Carolina, like other states, has defined used and useful utility property as "property which it [the utility] necessarily devotes to rendering the regulated services" and has allowed recovery for such property in rates. *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 286 n. 1, 422 S.E.2d 110, 112 n. 1 (1992) (quoting *Southern Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n of S.C.*, 270 S.C. 590, at 600, 244 S.E.2d 278, at 283 (1978)).

as Mr. Wittliff suggests, could be seen as arbitrary and capricious when this coal ash and any related costs have clearly been incurred as a result of providing electric service to customers in both South Carolina and North Carolina.

Q. HAS MR. WITTLIFF PRESENTED ANY ARGUMENT OR FINDING THAT THE COSTS HE SEEKS TO EXCLUDE FROM RECOVERY ARE IMPRUDENT OR UNREASONABLE?

A. No. Mr. Wittliff has not performed a prudency analysis of DE Progress' costs. The disallowances he recommends are entirely tied to whether costs are related to CAMA.

Q. HAS ANY REGULATORY JURISDICTION EVER EXAMINED AND RULED ON THE QUESTION OF WHETHER THE COSTS MR. WITTLIFF SEEKS TO DISALLOW IN THIS CASE WERE PRUDENTLY INCURRED?

A. Yes. The North Carolina Utilities Commission recently ruled on this issue. After filings and extensive testimony from Mr. Wittliff and other witnesses and cross examination, that body concluded that the Company's coal ash basin closure costs were prudent. (Order of Feb. 23, 2018, Docket No. E-2, Sub 1142, page 187, 188).

Q. HAS MR. WITTLIFF PRESENTED ANY ARGUMENT OR FINDING THAT THE COSTS HE SEEKS TO EXCLUDE FROM RECOVERY ARE NOT USED AND USEFUL?

A. No. The disallowances he recommends are entirely tied to whether costs are related to CAMA. Furthermore, it is undisputed in this case that the coal plants

associated with these costs and the related coal disposal facilities have been used and useful in providing low-cost, reliable power to South Carolina customers for more than 70 years. Consequently, these types of costs and, if any amount is deferred over time, a return, would be appropriately recoverable in rates to ensure that the Company recovered the equivalent of the full amount of those costs.

C. Costs Related To Specific Plants

Q. ARE THE COSTS FOR WHICH MR. WITTLIFF SEEKS TO DISALLOW RECOVERY IN THIS CASE RELATED TO SPECIFIC SITES?

A. Yes. He recommends disallowances for five sites: Asheville, Cape Fear, H. F. Lee, Sutton and Weatherspoon.

Q. WHAT IS MR. WITTLIFF'S RECOMMENDATION WITH RESPECT TO THE ASHEVILLE PLANT?

A. Mr. Wittliff indicates that North Carolina's Mountain Energy Act required an accelerated closure schedule that led to excavation of coal ash at Asheville whereas he claims the Federal CCR Rule would have allowed a less expensive cap-in-place option. He then attempts to quantify what he claims is the difference in the cost of these two options (his quantification in this regard is rebutted by Company witness Kerin) except that he also recommends what he has calculated to be engineering and planning costs (see Wittliff Direct T. at 40-41). The result is that he would disallow recovery at this time of $98.2 million in Asheville CCR sites closure costs, for which he says the Company can seek

recovery after 2020 (Wittliff Direct T. at 42:5-6).

Q. IS MR. WITTLIFF'S ARGUMENT THAT THE COSTS ASSOCIATED WITH THE ASHEVILLE PLANT ARE UNRECOVERABLE AT THIS TIME BECAUSE THEY ARE IN RESPONSE TO CAMA AND NOT THE FEDERAL CCR RULE REASONABLE?

A. No. This is not a reasonable argument from a regulatory cost recovery perspective in my opinion. Mr. Wittliff did not present evidence that the Company's Asheville closure strategy was unreasonable or imprudent. Assuming the Commission found the Asheville closure strategy to be prudent and reasonable, and there is no evidence to the contrary, then the costs should be recoverable at this time. The Company must comply with the laws of both North Carolina and South Carolina. ORS asks this Commission to conclude that DE Progress incurred costs at Asheville because it complied with the Mountain Energy Act. This effectively places the South Carolina Public Service Commission in the position of having to determine what is a reasonable coal ash compliance regulation for the state of North Carolina. For this case, the Commission would have to conclude that the CCR Rule is the only reasonable way to manage coal ash, and anything more prescriptive is excessive by definition. This ignores that the CCR Rule contemplates that states may develop more stringent regulation and it ignores the actions that South Carolina stakeholders have already taken that are above and beyond the requirements of the CCR Rule.

Q. WHAT IS MR. WITTLIFF'S RECOMMENDATION WITH RESPECT TO THE SUTTON PLANT?

A. Mr. Wittliff indicates that the Company actions at Sutton were not required by the CCR Rule but only due to CAMA requirements (Wittliff Direct T. at 37:19-23), and therefore that the Company should do nothing with respect to coal ash at Sutton at this time. He then recommends a disallowance of $186.4 million, He argues that, except for what he has calculated as planning and engineering costs, the rest of the costs expended at Sutton should be disallowed for recovery from South Carolina ratepayers at this time (Wittliff Direct T. at 40:4-6).

Q. IS MR. WITTLIFF'S ARGUMENT THAT THE COSTS ASSOCIATED WITH THE SUTTON PLANT ARE UNRECOVERABLE AT THIS TIME BECAUSE THEY ARE IN RESPONSE TO CAMA AND NOT THE FEDERAL CCR RULE A REASONABLE REGULATORY-BASED ARGUMENT?

A. No. Just as with the costs of the Asheville facility, this is not a reasonable argument from a regulatory cost recovery perspective in my opinion. The Company must comply with the laws of both South Carolina and North Carolina. South Carolina customers have enjoyed the benefits of the electric power produced by this facility for many years. Like South Carolina has done, North Carolina has a legitimate right to adopt coal ash closure procedures appropriate for that state. Moreover, as I have stated the coal ash closure plans in North Carolina are actually less costly then the apparent coal ash closure policies adopted in South Carolina. And finally, Mr. Wittliff did not present

evidence that the Company's Sutton closure strategy was unreasonable or imprudent.

Q. WHAT IS MR. WITTLIFF'S RECOMMENDATION WITH RESPECT TO THE CAPE FEAR AND H. F. LEE PLANTS?

A. Both the Cape Fear and H. F. Lee sites are beneficiation sites. Mr. Wittliff indicates that the Company should do nothing with respect to coal ash at Cape Fear recommends a disallowance of $33.6 million or all of the costs the Company is seeking recovery with respect to this facility. With respect to the H. F. Lee site he does allow recovery of some level of costs. His overall reasoning for his cost disallowance at both facilities is that the Federal CCR Rule would not have required any of the beneficiation the Company is undertaking, which is only required by CAMA. (Wittliff Direct T. at 34, Table 5.2 and Wittliff Direct T. at 35:15-18).

Q. ARE MR. WITTLIFF'S ARGUMENTS THAT COAL ASH COSTS AT CAPE FEAR AND H. F. LEE ARE NOT RECOVERABLE BECAUSE CCR SITE CLOSURE AT CAPE FEAR IS NOT REQUIRED UNDER THE CCR RULES, OR BENEFICIATION AT EITHER SITE IS NOT REQUIRED UNDER THE CCR RULES REASONABLE?

A. No. Mr. Wittliff has presented no argument that DE Progress' closure methodology is unreasonable or imprudent; his only claim is that the costs are not required under the Federal CCR Rule. Moreover, with respect to the Cape Fear site, it is difficult to imagine that the Company should or would be allowed by regulators and courts to simply do nothing at Cape Fear at this time,

particularly given the current activity in neighboring states and given current coal ash remediation plans in South Carolina resulting in excavation of all unlined sites, including inactive basins. Furthermore, for both facilities the Company must comply with the coal ash laws of both North Carolina and South Carolina.

Q. IS THERE ANY OTHER REASON WHY IT IS AN UNREASONABLE ARGUMENT THAT COAL ASH BENEFICIATION COSTS AT CAPE FEAR AND H. F. LEE ARE NOT RECOVERABLE BECAUSE BENEFICIATION AT EITHER SITE IS NOT REQUIRED UNDER THE CCR RULES?

A. Yes. I am informed by Company personnel that DE Progress' beneficiation projects at its Cape Fear and H. F. Lee sites will actually flow back a large cost savings to South Carolina customers. Because these sites are being beneficiated under CAMA, following Mr. Wittliff's recommendation in this case would mean these cost savings would go completely to North Carolina customers and not be realized by the Company's customers in South Carolina.

Q. WHAT IS MR. WITTLIFF'S RECOMMENDATION WITH RESPECT TO THE WEATHERSPOON PLANT?

A. Mr. Wittliff essentially makes the argument that beneficiation costs at Weatherspoon were only because of CAMA and unnecessary under the Federal CCR Rule. Thus, he recommends disallowance of what he has identified as the CAMA related - costs of $6.04M (Wittliff Direct T. at 43: 1-12).

Q. IS MR. WITTLIFF'S ARGUMENT FOR HIS PROPOSED

WEATHERSPOON DISALLOWANCE CORRECT?

A. No. DE Progress is not beneficiating ash under CAMA at Weatherspoon as Mr. Wittliff suggests (Wittliff Direct T. at 42: 21-23).and instead is selling raw, unprocessed ash to buyers who can use it to offset some of the costs for closing that site.[4] CAMA required the Company to select three sites for the installation of ash beneficiation equipment to process ash into a refined product. Those sites are H.F. Lee, Cape Fear, and Buck (DE Carolinas). Weatherspoon does not qualify as a beneficiation site under CAMA and the suggestion that the Company's ash disposal efforts at Weatherspoon are required by CAMA is wrong. DE Progress identified Weatherspoon as a site for cost-effective beneficial re-use of ash in the cement industry. This is a win-win for the cement industry and customers Likewise, Mr. Wittliff does not criticize the closure of Weatherspoon by excavation. Mr. Wittliff questions the logic of CAMA's beneficiation requirement that he erroneously believes applies to this site. If the Commission accepts Mr. Wittliff's erroneous assertions that Weatherspoon is a CAMA beneficiation site or that reuse of ash is somehow beyond the scope of the CCR Rule, then the related cost savings should not pass to SC customers.

III. RESPONSE TO ORS WITNESS SEAMAN-HUYNH

Q. WHAT IS MR. SEAMAN-HUYNH'S RECOMMENDATION REGARDING WHAT HE TERMS NORTH CAROLINA JURISDICTIONAL COSTS?

A. Mr. Seaman-Huynh's direct testimony (p. 7, lines 1-4) indicates that the ORS recommends the Commission disallow recovery of what he terms additional costs related to North Carolina laws and regulations. He refers to Mr. Wittliff for more discussion on this issue and the exact recommendations. By "laws and regulations," he is referring to CAMA.

Q. AS A GENERAL REGULATORY PRINCIPLE, WHY DO YOU DISAGREE WITH THIS RECOMMENDATION?

A. While I have addressed this issue in my response to Mr. Wittliff, I will provide a more expansive response here. The Company acknowledges, and I agree, that there are times when direct allocation of costs between jurisdictions is appropriate; but, direct allocation of costs between jurisdictions for many, if not most, costs is the exception, and not the rule, when jurisdictions share joint assets and thus enjoy the mutual benefits that come from sharing those assets. The coal ash that is related to these so-called CAMA costs was produced in providing electric service to customers in both South Carolina and North Carolina. There is no dispute that South Carolinians benefitted from the low electric rates and reliable service this Company has provided for decades, in large part due to its coal-fired electric generation. Therefore, just as those customers in South Carolina have benefitted from this coal-fired electric

service, they should likewise pay for the costs associated with that service, including these new environmental compliance costs.

Q. CAN YOU CITE SOME SPECIFIC REASONS WHY MR. SEAMAN-HUYNH'S PROPOSED JURISDICTIONAL COST ALLOCATION RECOMMENDATION IS NOT IN THE CUSTOMERS' BEST INTEREST?

A. Yes. First, while Mr. Seaman-Huynh may think his proposal is saving South Carolina customers money; it is not, as further discussed in Mr. Kerin's rebuttal. Further, his proposal, if accepted, could call into question the equities of sharing assets and economies of scale across a multi-state structure. In other words, the "slippery slope" and the unintended consequences that come with ORS's ill-conceived proposal far outweigh any perceived benefit that ORS may believe customers will see due to their suggested disallowances.

Additionally, if the Commission followed this recommendation, it would cause investors to reevaluate their views on this Commission's regulatory policies. As numerous return on equity experts have testified, the investment community does evaluate how regulatory commissions respond to utility filings and these evaluations are reflected in a utility's perceived riskiness and, in turn, in its cost of capital. I believe that if this Commission were to accept Mr. Seaman-Huynh's recommendation, it would negatively impact investors' perceptions of this Commission, which would likely increase the Company's cost of capital, resulting in increased rates.

Q. CAN YOU CITE ANY OTHER SPECIFIC REASONS WHY MR. SEAMAN-HUYNH'S PROPOSED JURISDICTIONAL COST ALLOCATION RECOMMENDATION IS NOT IN THE CUSTOMERS' BEST INTEREST?

A. Yes. A very important fourth reason, as I discussed briefly in response to Mr. Wittliff, is that such a ruling may result in a negative reaction from North Carolina regulators. It is reasonable to assume the North Carolina Utilities Commission would likely take umbrage at such a ruling and see it as South Carolina taking advantage of North Carolina's customers. To wit, most of the Company's generating facilities are located in North Carolina and, yet, for decades these facilities have served citizens in both states. To now disallow legitimate environmental regulations and related costs, regulations that as I have discussed are less stringent and less costly than regulations currently applied in South Carolina, would likely be perceived as North Carolina customers essentially subsidizing South Carolina customers.

In the end, I believe accepting this recommendation would likely result in jurisdictional allocation controversies between South Carolina and North Carolina, would result in increased rates over time, and could call into question the equities of sharing assets and economies of scale across a multi-state structure.

IV. RESPONSE TO ORS WITNESS MORGAN

Q. WHAT ISSUE ARE YOU ADDRESSING RELATED TO ORS WITNESS MORGAN'S DIRECT TESTIMONY?

A. I am responding to ORS Witness Morgan's updated Adjustment #36. This is an adjustment to operations and maintenance ("O&M") expenses to remove $875,000 in certain expenses which include litigation expenses purportedly attributable to legal actions related to coal ash.

Q. WHAT IS HIS BASIS FOR THIS ADJUSTMENT?

A. ORS Witness Morgan references ORS Witness Wittliff's direct testimony and his claim that "the Company violated state and federal laws resulting in damages to the environment." (ORS Witness Morgan Direct Test. 5:12-15). Relying on Mr. Wittliff's testimony, ORS Witness Morgan concludes that:

> "Customers should not bear the burden of legal costs related to the Company's failure to operate its coal ash basin in accordance with state and federal rules and regulations. Inclusion of the legal costs as an allowable expense forces ratepayers to pay for Duke Energy Carolinas, LLC's ("DEC" or "Company") failure to comply with the law. Furthermore, the legal expenses are not related to providing adequate electrical service and the customers derived no benefit from the expenditures. These legal costs should be the shareholders responsibility which in turn incentivizes the regulated utilities to operate in compliance with federal, state and local laws."

(ORS Witness Morgan Direct Test. 5:14-22).

Q. CAN YOU PLEASE DESCRIBE WHAT LEGAL FEES ARE ASSOCIATED WITH THIS PROPOSED DISALLOWANCE?

A. The proposed disallowance appears to derive from litigation expenditures that are listed in DE Carolinas' Confidential response to ORS Audit request number 43. The expenditures listed in that response relate to two matters involving the Company: 1) the ongoing insurance recovery litigation and 2) defense of state enforcement actions.

Q. DO YOU AGREE THAT THESE LEGAL FEES SHOULD BE EXCLUDED FROM RECOVERY?

A. No. These legal fees should be recoverable from ratepayers.

Q. WHY DO YOU BELIEVE THAT THESE LEGAL FEES SHOULD BE RECOVERED FROM RATEPAYERS?

A. There are two basic reasons for this conclusion. First, as a general matter, legal fees should be recoverable because they represent a legitimate, reasonable, and prudent business expenditure and, absent a finding that a specific legal expense was imprudent or unreasonable, these expenses should be recoverable. The Company must be afforded the opportunity to defend itself from lawsuits especially from non-government related parties that is the origination of much of the Company's legal expenses, including those in this case. Indeed, the Company might even be considered a "target" so to speak for lawsuits and must be allowed to vigorously defend itself.

Second, Mr. Wittliff's testimony does not support ORS Witness Morgan's rationale for the recommended disallowance. I believe that a cost

disallowance must be based on the specific facts and circumstances that support such a proposed cost disallowance. With respect to this criterion, ORS Witness Morgan claims "[c]ustomers should not bear the burden of legal costs related to the Company's failure to operate its coal ash basin in accordance with state and federal rules and regulations. (page 5, lines 14-15)." To support this claim and related proposed cost disallowance, he references Mr. Wittliff's direct testimony and what he claims are environmental violations. However, the litigation costs associated with the ongoing insurance litigation was initiated by the Company for the benefit of its customers to enforce insurance policies and obtain indemnity from insurers for costs incurred associated with coal ash remediation. The insurance case is focused on legal liability on account of property damage caused by an occurrence, not environmental violations. If the Company prevails in this litigation, the costs it recoups from its insurers will be passed along to benefit its customers.

Q. OTHER THEN THIS INSURANCE RELATED LITIGATION, DOES MR. WITTLIFF IDENTIFY OR DISCUSS THE LITIGATED MATTERS FOR WHICH ORS WITNESS MORGAN IS RECOMMENDING DISALLOWANCES?

A. Only partially. Mr. Wittliff's direct testimony discusses litigation relating the Company's alleged environmental violation (page 16, lines 16-18), where he cites his Exhibits 5.0 through 5.4 as legal actions that he believes indicate the Company committed violations of environmental regulations. Only three of

those exhibits, Exhibits 5.3.1, 5.3.2, and 5.4 relate to the state enforcement actions for which ORS is recommending its disallowance.

Mr. Wittliff's Exhibits 5.3.1 and 5.3.2 are summary judgment orders from state enforcement actions that were filed against the Company in 2013. These state enforcement actions preceded the passage of both the federal CCR Rule and the CAMA. It is my opinion that the Company has a legitimate right and an obligation to defend itself from allegations of wrongdoing when the Company believes it is in compliance with the then current coal ash regulations. Moreover, the Company should defend itself and ratepayers in a legal proceeding when the potential result could be the requirement that the Company undertake coal ash remediation procedures that are beyond the current regulatory requirements, and, which in the end, could prove far more costly to customers then what would be required by either CAMA or the CCR. Importantly, there has been no finding by the Court in these actions that the Company violated any environmental statute or rule.

Wittliff Exhibit 5.4 is a North Carolina Settlement Agreement where the Company had no admission of guilt and finding or admission of a violation. I believe it is reasonable to expect the Company to defend itself and ratepayers from the potential for expensive and unnecessary legal rulings and, in appropriate instances, settling lawsuits. Moreover, often these lawsuits are brought by non-government entities and the Company surely has a right and responsibility to defend its customers and stockholders from these type lawsuits over which they have no control as to how many and when such lawsuits might

occur. Therefore, it is my opinion that these legal fees are a legitimate and recoverable expense.

V. RESPONSE TO ORS WITNESS PAYNE

Q. WHAT IS MR. PAYNE'S RECOMMENDATION WITH RESPECT TO RECOVERY OF DEFERRED COSTS?

A. Generally speaking, Mr. Payne recommends that any cost deferrals, except those related to deferred income tax, be categorized as either an operating-related or capital-related cost. Based on my discussions with Company accountants, it is my understanding that he has further recommended that what he has identified as operating-related, including deferred O&M, depreciation and property tax expenses. not be included in rate base and be recovered over time with no return on the deferred costs during the time period when these costs are being recovered (amortization period). He has also recommended no return on the deferred balances during the deferral period. Finally, for several of his deferred expense costs, he has proposed amortization periods much longer than what the Company is proposing.

Q. WHAT IS THE ULTIMATE MONETARY IMPACT OF HIS RECOMMENDATION?

A. His recommendation does not allow the Company the opportunity to recover its true costs for two reasons. First, by not allowing the recovery of a return on uncollected deferred costs during the deferral period, whatever that deferred cost may be including uncollected depreciation, the Company does not have the opportunity to recover all of its costs associated with these deferred accounts.

Second, increasing the amortization period (see Company witness Bateman Rebuttal Testimony) and not allowing a return over the time period the costs are being recovered, prevents the Company from recovering its costs associated with the cost of money.

Q. IS HIS RECOMMENDATION CONSISTENT WITH YOUR UNDERSTANDING OF THE USUAL METHODOLOGY EMPLOYED TO RECOVER DEFERRED COSTS?

A. No. In my experience, his recommendation to disallow the recovery of a return on a large portion of the Company's deferred costs is inconsistent with the normal cost recovery allowed by regulatory bodies. Specifically, it violates the basic regulatory compact, which can be stated as follows: "*A rate - regulated entity incurs costs in order to provide reliable service to customers within its approved service territory in a not unduly discriminatory manner* ***with the expectation that it will have the right to recover those prudently incurred costs, plus earn a fair rate of return on the capital that has been invested in the business to support reliable utility service***." (emphasis added) [5]

Q. HOW DOES MR. PAYNE'S RECOMMENDATION VIOLATE THE BASIC REGULATORY COMPACT?

A. Yes, because it does not allow the Company the opportunity to recover its prudently-incurred costs.

[5] "Accounting for the Effects of Rate Regulation," Edison Electric Institute, July 2011, page 5 (emphasis added). *See also S. Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n*, 270 S.C. 590, 595, 244 S.E.2d 278, 280-81 (1978) ("the governing principle for determining rates to be charged by a public utility is the right of the public on one hand to be served at a reasonable charge, and the right of the utility on the other to a fair return on the value of its property used in the service") (citing *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of West Virginia*, 262 U.S. 679 (1923)).

Q. MR. PAYNE INDICATES IN SEVERAL PLACES IN HIS TESTIMONY THAT ORS'S RECOMMENDATION "STILL ALLOWS THE COMPANY TO RECOVER ITS ACTUAL DEFERRED COSTS" (page 8, lines 12-14, page 12, lines 12-13). IS THIS STATEMENT CORRECT WITH RESPECT TO HIS PROPOSED COAL ASH RECOMENDATION?

A. He is not correct when he does not allow the Company to recover in rates a return on portions of the deferred accounts. A basic understanding of accounting, finance, and economics tells us that there is a cost of money. In our daily life, this is the interest rate on our credit cards or the interest rate we pay on our home loans. In the context of utility regulation, we have cost of capital witnesses that explain the costs of a utility's capital. In addition, regulation accounting has various accounts like rate base and working capital accounts for which a cost of capital, represented by a return, is computed. So, too, the dollars the Company has spent and placed in a deferred account, have a cost – these dollars were not borrowed from investors for free and the Company is paying those costs. Therefore, if a return on these deferred expenses is not allowed, then it means the Company has not been allowed the opportunity to recover its legitimate and prudent costs.

Q. CAN YOU PROVIDE ANOTHER REASON WHY NOT ALLOWING A RETURN PREVENTS THE COMPANY FROM RECOVERING ITS TRUE COSTS?

A. Yes. The most basic reason is it completely ignores the effect of inflation over time; and, this impact is aggravated by Mr. Payne's other recommendation to stretch out the Company's proposed cost recovery amortization periods (page 12, lines 2-3, 16-17). Thus, Mr. Payne's recommendations not only ignore the fact that dollars the Company invests cost money, but he even ignores the impact of inflation on the recovery of those costs. In the most basic economic terms, if one ignores the impact of inflation and spreads over many future years the recovery of dollars spent today, this means the Company can never recover its true costs and never be made whole.

Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING MR. PAYNE'S TESTIMONY?

A. Yes. In several places he comments that the ORS recommendation "still allows the Company to recover its actual deferred costs through amortization of the proposed deferral balance which is a sufficient level of cost recovery." (for example page 8, lines 12-14, page 12, lines 13-14). I am at a loss to understand what he means by the term "a sufficient level of cost recovery." I am also unfamiliar with this term being the standard of cost recovery applied in a regulatory forum because it seems to require a subjective opinion. In my experience, the standard of cost recovery in regulation is the recovery of all

prudent and reasonable costs plus a reasonable return on those costs recovered over time.

Even accepting Mr. Payne's concept that a sufficient level of cost recovery is an appropriate regulatory standard, I believe this is a vague choice of words and he provides no indication as to how to measure "sufficient." Unless it is totally subjective, I am left to ponder what financial or other metrics were used by ORS in its determination of sufficiency? I believe that adopting sufficiency as a regulatory guideline, along with the adoption of Mr. Payne's recommendations regarding no return on much of the Company's deferred costs, would elicit a negative response from the investment community. This would result in an increase in the Company's cost to borrow money or attract equity investors, resulting in higher future rates for all of its customers.

VI. RESPONSE TO SOUTH CAROLINA ENERGY USERS COMMITTEE WITNESS O'DONNELL

Q. WHAT ISSUES ARE YOU RESPONDING TO WITH RESPECT TO MR. O'DONNELL?

A. I am responding to the two basic issues that he raises regarding coal ash compliance costs. First, I dispute his conclusion that the Company's coal ash remediation costs "are MUCH greater than the coal ash AROs from other utilities [and this] strongly implies that the North Carolina CAMA legislation is much more stringent than the CCR Rule requirements." (page 41, lines 8-11) Second, I dispute his overall recommendation that 75% of the Company's coal ash remediation costs requested in this case be disallowed.

Q. MR. O'DONNELL INDICATES THAT THE COMPANY'S CCR SITE CLOSURE COSTS ARE MUCH GREATER THAN THE CLOSURE COSTS OF OTHER COMPANIES AND THIS IS DUE TO CAMA (page 41, lines 8-11). DO YOU AGREE?

A. I do not agree, and I believe that a fatal flaw with his argument is one of timing. To explain, he uses data from SNL Financial and 2017 financial statements to extract his data (page 46, lines 1-5). While this may seem to be current, in the context of coal ash, this is not true since there are ongoing regulatory and legal proceedings and various Company coal ash updates. For example, in the past thirty days Virginia adopted a very costly coal ash bill that will significantly impact Dominion Energy; and, Georgia Power, in October of 2018, updated the sites it is excavating by adding an additional 29 million tons of ash to be excavated. These laws in other states are evolving since the passage of the Federal CCR Rule, as evidenced by the legislation recently adopted in Virginia, the recent introduction of a bill in Georgia, and the numerous ongoing legal proceedings in other jurisdictions. It just so happens that South Carolina and North Carolina began the process earlier, and, in fact, South Carolina essentially leads the Southeast as it began excavation of its sites in 2012.

To illustrate the current state of cost estimates, refer to the following table that compares Mr. O'Donnell's cost estimates to some updated cost estimates. Table JAW-1 shows that for three neighboring utilities, Georgia Power, Alabama Power, and Dominion Energy (in Virginia), Mr. O'Donnell's ARO coal ash compliance dollars are significantly less than what these utilities

have recently reported. Mr. O'Donnell doesn't even report TVA, whose compliance costs are still in dispute but could range far in excess of the current $2 billion estimate if the least costly method of closure is not used. Therefore, because neighboring state utilities are just now beginning to get new rules, or settle cases, the coal ash costs Mr. O'Donnell is reporting for these neighboring states are lower than the more current cost estimates. Consequently, Mr. O'Donnell's conclusion that the Company's "coal ash costs are MUCH greater than the coal ash AROs from other utilities" and that this increased cost is caused by CAMA (page 47, lines 4-7) is contradicted when one considers more recent coal ash cost data.

TABLE JAW-1: COMPARISON OF O'DONNELL REPORTEDCOAL ASH COMPLIANCE COSTS

COMPANY	O'Donnell Reported Cost, Direct Testimony Table 8, page 46	Estimated Cost to Comply With CCR and State Regulations		Source
		Minimum	Maximum	
Dominion Energy Virginia	$624M	$5.6B to 8.2 B+ (note, with the passage of the recent legislation the costs is expected to approach the estimates for excavation, which the legislation requires)		AECOM Report in Response to SB 1398, Tables ES-1, ES- 2, Nov. 2017 and https://www.richmond.com/news/virginia/coal-ash-excavation-could-cost-dominion-ratepayers-an-extra-per/article_7e0269a2-c791-58d8-949c-5710083b1875.html December 17, 2018
GA Power	$1.424B	$1.5B	$2.0B (note, this does not include the recent 29 million tons to be excavated at two additional sites – to put this additional 29 million ton potential cost in perspective, the recent VA legislation calls for Dominion to excavate 28 million tons at a cost estimate of $5.6 B to over $ 8.2 B)	http://www.ajc.com/business/georgia-power-close-ash-lagoons-sooner-could-cost-billion/Un9uNUQFtsZZBJXV gKGNaK/, June 13, 2016
Al Power	$324M	$1.14B	No estimate provided	Docket No. 18117, Al Power Compliance Plan, Dec. 13, 2016
TVA	Not reported	$3.5M	$2.3B	http://www.powermag.com/tv a-backs-in-place-coal-ash- impoundment-closure-method-over-remo

Q. EVEN IF THE COMMISSION WERE TO ACCEPT MR. O'DONNELL'S ASSERTION THAT THE COMPANY'S COAL ASH COMPLIANCE COSTS ARE IMPROPERLY HIGHER THAN OTHER ULITITES IN THE NATION, IS HIS PROPOSED 75% COST DISALLOWANCE A PROPER METHOD OF ADDRESSING THIS CONTENTION?

A. No. The appropriate mechanism for adopting a cost disallowance is a finding that a specific level of costs is imprudent, unreasonable, or not used and useful. Mr. O'Donnell makes none of these arguments but simply advocates for a blanket 75% cost reduction with no identification of costs that were imprudent, unreasonable, or not used and useful.

VII. RESPONSE TO SIERRA CLUB WITNESS HAUSMAN

Q. SIERRA CLUB WITNESS DR. EZRA HAUSMAN CONTENDS THAT THE COMMISSION SHOULD REQUIRE THE COMPANY TO CONDUCT A COMPREHENSIVE RETIREMENT ANALYSIS AND THAT THE RECOVERY OF THE CCR COSTS BE CONDITIONED ON THE FILING OF THIS ANALYSIS (page 26, l.11-16, page 27, l.1-8). DO YOU AGREE?

A. No. I disagree with his recommendation of conditional recovery for several reasons. First, approving a "conditional cost recovery" is inconsistent with the facts of this proceeding. To wit, the Company is expending resources to meet environmental compliance deadlines. These expenditures are not optional, and they are time sensitive. Therefore, unless these costs have been demonstrated

to be imprudent, unreasonable, or not used and useful, which no witness has contended or provided evidence to support, then the recovery of these costs should be allowed at this time.

Second, a conditional approval is inconsistent with the cost recovery standards under which this Commission has based its regulatory policies (discussed earlier in this testimony). Those policies are that costs are recoverable if they have been demonstrated to be prudent, reasonable, and used and useful. Again, no witness has contended or provided evidence to dispute these costs meet this standard, thus the recovery of these costs should be allowed at this time.

Third, because these expenditures are required at this time in order to meet legal deadlines, as Mr. Kerin has explained in his direct testimony, then the Company has the legal right to seek recovery of these costs in a timely manner and has done so in this case. To accept Dr. Hausman's "conditional recovery" would essentially cast a shadow of delay on potential future refunds with respect to these now conditionally recovered expenses, which would likely elicit a negative reaction from the investment community. The reason is because of a risk that the Company's earnings would apparently be subject to restatements as a result of customer refunds if, in the future, the Commission did not approve of the comprehensive retirement analysis upon which Dr. Hausman conditions his cost recovery approval.

Finally, I am at a loss to understand how this "conditional recovery" idea would even work. I believe, at the very least, such a policy would be seen

as retroactive ratemaking, which is not allowed in most regulatory jurisdictions, including South Carolina.

Q. DOES THIS CONCLUDE YOUR PRE-FILED REBUTTAL TESTIMONY AT THIS TIME?

A. Yes.